

App. No. 10/520,330
Office Action Dated April 21, 2006

REMARKS

Reconsideration is respectfully requested in view of the above amendments and following remarks. Claims 1 and 9 have been amended. Claims 1 and 9 have been amended to incorporate the limitations of previous claims 5 and 6. Claims 5 and 6 have been canceled. Claims 10-13 are new. Claims 10 to 13 generally track the limitations in claims 3, 4, 7 and 8, respectively. Claims 1, 3-4 and 7-13 are pending. No new issues are raised by the revisions, and therefore this Amendment should be entered.

Claim rejections - 35 U.S.C. § 103

Claims 1 and 3-9 have been rejected under 35 U.S.C. 103(a) as obvious over Chen et al. (U.S. Patent No. 5,670,057) in view of Milner (U.S. Patent No. 6,077,836) and Kelton et al. (1978). Applicants respectfully traverse this rejection.

Claims 1 and 9 require performing fluid infusion and fluid drain at least three times for each dialysis fluid of respective osmotic pressure. The claims also require setting the dwell time from when the dialysis is infused until when the dialysis is drained to be different each time when using a dialysis fluid having the same osmotic pressure. These features allow curve fitting of a curved line, which expresses the change over time in the water removal amount and the change over time in the solute concentration, to be performed precisely (page 5, lines 7-10).

More specifically, the curved line is obtained by curve fitting based on at least three types of clinical data for different dwell times when using a dialysis fluid having the same osmotic pressure. These test sampling points are set in the time interval where there is the greatest change in the amount of water removal, that is, sampling points where there is the greatest amount of change in the curved line (page 5, lines 10-15). In this way, higher

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precision curve fitting is achieved, and as a result, a peritoneal dialysis simulation becomes possible (page 5, lines 15-17).

The advantageous effects of the claims are demonstrated in the experimental work of the present specification. Briefly, dialysis fluids having high and low osmotic pressure were infused in alteration (page 8, lines 19-21). Then, three types of clinical data for different dwell times were collected as required by claims 1 and 9 (Id.). As indicated in Figs. 6 and 7, by appropriately performing curve fitting based on dwell times of three different lengths for dialysis fluids having the same osmotic pressure, the curved lines expressing the change over time in the water removal amount and the change over time in the solute concentration of the drain fluid were obtained.

The rejection relies on Milner for a method for performing a peritoneal dialysis. The rejection's reliance is misplaced. Although Milner teaches the repeated infusion and drain of two alternate peritoneal dialysis fluids having different osmotic pressure, nonetheless, Milner discloses dwell times of the dialysis fluids having the same osmotic pressure to be identical (col. 30, lines 20-25). On the other hand, claims 1 and 9 require the step of performing fluid infusion and fluid drain a plurality of times using dialysis fluids with the same osmotic pressure with the dwell times being different. Milner does not teach or suggest using three different dwell times for dialysis fluids having the same osmotic pressure so as to perform curve fitting with higher precision. Therefore, claims 1 and 9 are patentable over Milner.

Kelton teaches the performance of a blood test last of all steps. However, Kelton likewise fails to teach or suggest using three different dwell times for dialysis fluids having the same osmotic pressure. Accordingly, even if Chen, Milner and Kelton are combined, the references would still fail to meet claims 1 and 9.

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In consideration of the forgoing, it is clear that Chen, Milner and Kelton fail to teach or suggest the features required by claims 1 and 9. Therefore, claims 1 and 9 and the dependent claims therefrom are patentable over the references, taken together or separately.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.

Respectfully Submitted,

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Douglas P. Mueller

Reg. No.: 30,300

Hamre, Schumann, Mueller & Larson, P.C.

225 South Sixth Street, Suite 2650

Minneapolis, MN 55402

612.455.3800

DPM/ym

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